

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-24 are pending in this application. Claims 1, 7 and 21-24 are independent and have been amended. Support for the amendments to the claims is found throughout the Specification, specifically at pages 13-14. No new matter has been introduced by this amendment. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which the Applicants are entitled.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1, 3, 7-9, 12, 13, 16 and 21-24 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,665,985 to Hennes (hereinafter, merely "Hennes") in view of U.S. Patent No. 4,483,681 to Weinblatt (hereinafter, merely "Weinblatt").

Claims 2, 10 and 11 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hennes in view of Weinblatt and further in view of U.S. Patent No. 6,507,353 to Huard (hereinafter, merely "Huard").

Claims 4 and 17 and 18 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hennes in view of Weinblatt and in further view of U.S. Patent No. 6,409,599 to Sprout et al. (hereinafter, merely "Sprout").

Claims 5, 6, 19 and 20 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hennes in view of Weinblatt, and in further view of U.S. Patent No. 6,600,477 to Howell (hereinafter, merely "Howell").

Claim 14 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hennes in view of Weinblatt, and in further view of U.S. Patent No. 5,726,701 to Needham (hereinafter, merely "Needham").

Claim 15 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hennes in view of Weinblatt and Needham, and further in view of U.S. Patent No. 2,593,204 to Schwartzberg (hereinafter, merely "Schwartzberg").

III. RESPONSE TO REJECTIONS

Claim 1 recites, *inter alia*:

"An audience response determination apparatus...

determination means for determining the audience response on the basis of information detected by said overall state detection means and by said individual state detection means,

wherein said determination means for determining the audience response comprises an audience state determination unit for estimating the audience response based upon identifying values of respective determination signals and auxiliary information,

wherein said auxiliary information indicates a current state of playback being presented to said audience and distinguishes specific content as being movie content information."
(emphasis added)

As understood by Applicants, Hennes relates to an interactive theater for creating a perception on the part of the audience that they are immersed in a boundless environment. A projection surface surrounds the audience to form a cavity providing a full projected environment horizontally and vertically. The interactive theater includes detectors or sensors for detecting audience movements or actions in order to vary the projected image in response to such detected movements or actions.

As understood by Applicants, Weinblatt relates to an imaging system providing alternate viewing modes which can be monitored by a test subject with selective control of the viewing mode.

As understood by Applicants, Sprout relates to entertainment and educational systems whereby participants interact with an electronic or computerized environment in addition to live and/or pre-recorded performers. Audio and motion devices are equipped to seats for each participant to enhance the immersive experience. The immersive experience of the participants is supplemented by aural and physical sensations of the motion-equipped seats.

As understood by Applicants, Howell relates to methods for inputting data or other information into electronic device by computer operator foot motion. A sensing pad is configured such that position and motion information may be sensed at two positions; one for each foot supported on the sending pad where foot motion and position from both feet is of interest.

As understood by Applicants, Needham relates to providing audience response data in a physically-distributed environment. An audience system divides a digitized input signal into frames constructed from the audience response data. A bit stream is created by comparing the digitized signal of each frame to a threshold value and generating a one-bit value

representing each frame. The audience system determines the response received based on the bit stream comparison result.

As understood by Applicants, Schwartzberg relates to a sound control system for a sound picture apparatus. At locations in an auditorium, microphones are located, where the output of the microphones is fed to an amplifying circuit which constitutes a measure of the sound level at each respective microphone. A potentiometer is provided with taps to distinguish the attendance of the auditorium based on the output from the microphones. A specific tap represents the auditorium at one-third its capacity, another tap when at two-thirds capacity, etc and another specific tap when the auditorium is full.

Applicants submit that Hennes, Weinblatt, Sprout, Howell, Needham and Schwartzberg, taken alone or in combination, fail to teach or suggest the above features of claim 1. Specifically, Applicants respectfully submit that there is no teaching or suggestion of an audience response determination apparatus wherein said auxiliary information indicates a current state of playback being presented to said audience and distinguishes specific content as being movie content information, as recited in claim 1.

Furthermore, Applicants submit that the combination of Hennes, Weinblatt, Sprout, Howell, Needham and Schwartzberg is a result of impermissible hindsight reconstruction of the claimed invention using the Applicants' claim as a template and selecting elements from references to fill in the gaps.

Since the references cited were combined piecemeal, without any suggestion or motivation for their combination, independent claim 1 is believed to be allowable

Therefore, Applicants submit that independent claim 1 is patentable.

For reasons similar to those described above with regard to independent claim 1, independent claims 7 and 21-24 are also believed to be patentable.

Therefore, Applicants submit that independent claims 1, 7 and 21-24 are patentable.

IV. DEPENDENT CLAIMS

The other claims in this application are each dependent from the independent claim discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

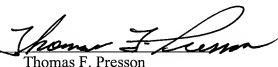
In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
Thomas F. Presson
Reg. No. 41,442
(212) 588-0800